

IN RE: PETITION FOR SPECIAL HEARING
NE/S Riverside Drive, 257' SE
of the c/l of Cedar Drive
(407 Riverside Drive)
15th Election District
7th Councilmanic District

Michael S. Knight, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 98-405-SPH
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, Michael S. Knight, and his wife, Karen M. Knight. The Petition, as filed, requests "approval of the use of the property (garage) for personal use of a gunsmith and archery shop." The subject property and relief sought are more particularly described on the site plan submitted with the Petition filed which was accepted into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Michael S. Knight, property owner. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property consists of a gross area of 0.193 acres, more or less, zoned D.R. 5.5. The property is roughly rectangular in shape with frontage on Riverside Drive, and is located across the street from Back River in Essex. The property is improved with a 1.5 story single family dwelling in which the Petitioners reside and a detached 20' x 22'6" garage. The Petitioners have resided on the property since 1986; however, the dwelling thereon was constructed in approximately 1949. Mr. Knight testified that he is employed on a full-time basis as a mechanic by the Domino Sugar Corporation; however, he enjoys a

ORDER RECEIVED FOR FILING

Date

By

hobby as a gunsmith and builds mostly muzzle-loaded rifles and/or muskets. He indicated that the construction of these weapons is a tedious task and can take up to 300 hours to produce a single weapon. Typically, he makes only one gun per year. Additionally, his hobby extends into the sport of archery, in that he makes arrows and replaces strings on bows. Testimony was offered that he maintains small equipment to facilitate the manufacturing process of his hobby, including a small air compressor and lathe.

Special hearing relief is requested to approve the subject operation as a gunsmith and archery shop. Apparently, the Petitioner seeks relief as a home occupation. The zoning regulations permit, as of right, home occupations in the D.R. 5.5 zones. The definition of a home occupation, set forth in Section 101 of the Baltimore County Zoning Regulations (B.C.Z.R.), was recently amended. The amendment recognized the recent advances in technology and now provides that an individual may use computers, printers, fax machines, modems, standard office copy machines, and similar office equipment in a home occupation. However, the definition was not changed in that a home occupation must continue to be conducted entirely "within a dwelling" and remain "incidental to the main use of the building for dwelling purposes..." Mr. Knight indicated that his gunsmith and archery shop activities are conducted within the garage. Since the garage is detached from the dwelling, it does not qualify, by definition, for a home occupation. That is, the activity is not confined within the dwelling and therefore, he is not eligible for designation as a home occupation. It is also of note that the home occupation definition does not permit the storage of any commodity on the premises and that the Petitioner may likely not satisfy this requirement.

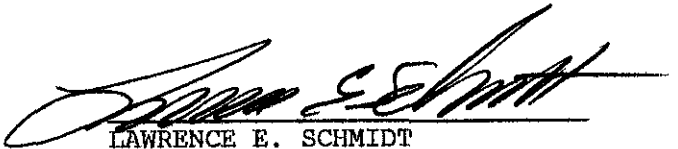
ORDER RECEIVED FOR FILING
Date 7/3/98
By [Signature]

For these reasons, the Petition for Special Hearing must be denied. It is clear that the Petitioner does not satisfy the requirement for a home occupation. Notwithstanding this ruling, it is likewise clear that Mr. Knight's hobby may continue. There were no Protestants present and it appears that his small operation does not cause any detrimental impact on the neighborhood. For so long as his venture continues to be in the nature of a hobby, it is not contrary to the B.C.Z.R. However, in the event it becomes commercial in character (i.e., the sale of goods or commodities for profit), it becomes a home occupation, and therefore, illegal.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 31st day of July, 1998 that the Petition for Special Hearing to approve a gunsmith and archery shop within an existing garage on the subject property, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

LES:bjs


LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING

Date 7/31/98

By [Signature]



Baltimore County
Zoning Commissioner
Office of Planning

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386

July 31, 1998

Mr. & Mrs. Michael S. Knight
407 Riverside Drive
Baltimore, Maryland 21221

RE: PETITION FOR SPECIAL HEARING
NE/S Riverside Drive, 257' SE of the c/l of Cedar Drive
(407 Riverside Drive)
15th Election District - 7th Councilmanic District
Michael S. Knight, et ux - Petitioners
Case No. 98-405-SPH

Dear Mr. & Mrs. Knight:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been denied, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lawrence E. Schmidt", is written over the typed name.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: People's Counsel; Case Files





Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 407 Riverside Drive Baltimore MD 21221
which is presently zoned DR-5-5

This Petition shall be filed with the Department of Permits & Development Management

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County to determine whether or not the Zoning Commissioner should approve

(garage) for personal use of a Gunsmith & Techery shop

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee

MICHAEL STEVEN KNIGHT
(Type or Print Name)

Michael Steven Knight
Signature

407 Riverside Drive
Address

Baltimore Maryland 21221
City State Zipcode

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

MICHAEL STEVEN KNIGHT
(Type or Print Name)

Michael Steven Knight
Signature

KAREN MARIE KNIGHT
(Type or Print Name)

Karen Marie Knight
Signature

407 RIVERSIDE DRIVE 4103916583
Address Phone No

Baltimore Maryland 21221
City State Zipcode

Name, Address and phone number of representative to be contacted.

MICHAEL STEVEN KNIGHT
Name

407 RIVERSIDE DRIVE 4103916583
Address Phone No

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY:

DATE

4-28-98

405

Revised 9/5/95

98-405-SPH

ORDER RECEIVED FOR FILING
7/13/98

Date

405

ZONING Description
for 407 River side Drive Baltimore Md
21221

407 RIVER SIDE DRIVE Balt Md 21221
and described as follows, that is to say: ZONING DESCRIPTION
BEGINNING for the same at a point on the northeast side of Riverside Drive at a distance of 257.00 feet southeasterly along Riverside Drive from the southeasterly side of Cedar Avenue, said point being the dividing line of Lots 22 & 23, Block 4M, Section E of Essex, a plat recorded among the Land Records of Baltimore County in Plat Book 5, Page 39, and running, thence to bisect Lot 23 (1) North 51° 17' 34" East 155.00 feet to a pipe fond at the corner of Lots 24 & 23 and 4 & 5, thence with part of the easterly boundary of Lot 24 (2) North 29° 32' 25" West 47.71 feet to a concrete filled fence post at the end of the second line of that land described in Liber 1265, folio 184 of the aforesaid land records and running, thence reversly with said line and the existing fence line (3) South 55° 57' 00" West 159.00 feet to a fence post at the fence corner of the north east side of Riverside Drive, thence with said road (4) South 34° 36' 30" East 60.15 feet to the opint of beginning containing 8,432 square feet or 0.1936 acres of land, more or less.

also known as 407 RIVERSIDE DRIVE
and located in the 15 Election District and
located in the 7 Councilmanic District

98-405-SPH

BALTIMORE COUNTY, MAF AND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

Item 405
No. 315

DATE 4-28-98 ACCOUNT R-001-6150

AMOUNT \$ 50.00

RECEIVED FROM: Mr. Knight

FOR: Residential Special Hearing
407 Riverside Dr, (21221)

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT
CASH
4/28/98 4:20 PM
CASHIER CLINICAL
BALTIMORE COUNTY
CASH RECEIPT
50.00 CASH
BALTIMORE COUNTY, MARYLAND

98-405-SPH

CASHIER'S VALIDATION

NOTICE OF PUBLIC HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case #98-405-SPH
407 Riverside Drive
NE/S Riverside Drive, 257 +/-
SE of Cedar Avenue
15th Election District
7th Councilmatic District
Legal Owner(s):
Michael Steven Knight &
Karen Marie Knight
Contract Purchaser:
Michael Steven Knight
Special Hearing: to approve the use of the property (garage) for personal use of a gunsmith and archery shop.
Hearing: Tuesday, June 9, 1998 at 10:00 a.m. in Room 407, County Courts Bldg., 401 Rossby Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call (410) 887-3353.
(2) For information concerning the File and/or Hearing, Please Call (410) 887-3351.

5/31/98 May 21 1230-428

CERTIFICATE OF PUBLICATION

TOWSON, MD., May 21, 1998

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on May 21, 1998.

THE JEFFERSONIAN,

A. Henickson

LEGAL AD. - TOWSON

CERTIFICATE OF POSTING

Case # 98-405-APD
Petitioner/Developer:
(Michael Knight)
Date of Hearing/Closing:
(June 9, 1998)

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Attention : Ms. Gwendolyn Stephens

Ladies and Gentleman:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by
law were posted conspicuously on the property located at _____

407 Riverside Drive Baltimore, Maryland 21221 _____

The sign(s) were posted on _____ May 22, 1998 _____
(Month, Day, Year)

Sincerely,

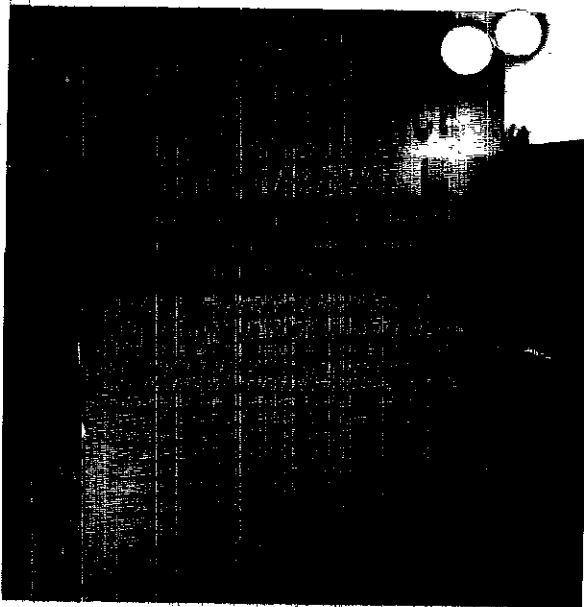

(Signature of Sign Poster & Date)

Thomas P. Ogle, Sr.

323 Nicholson Road

Baltimore, Maryland 21221

(410)-687-8405
(Telephone Number)





Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of which, lies with the petitioner/applicant) and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with this requirement.

Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

ARNOLD JABLON, DIRECTOR

For newspaper advertising:

Item No.: 405

Petitioner: Michael S. Knight

Location: 407 Riverside Dr.

PLEASE FORWARD ADVERTISING BILL TO:

NAME: MICHAEL STEVEN KNIGHT

ADDRESS: 407 RIVERSIDE DRIVE

Baltimore, Maryland 21221

PHONE NUMBER: 410 391 6583

AJ:ggs

(Revised 09/24/96)

98-405-SP14



Request for Zoning: Variance, Special Exception, or Special Hearing

Date to be Posted: Anytime before but no later than _____

Format for Sign Printing, Black Letters on White Background:

ZONING NOTICE

Case No.: 98-405-SPH

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

PLACE: _____

DATE AND TIME: _____

REQUEST: A special Hearing to allow the use of the
property (garage) for personal use of a Gunsmith
& Archery Shop.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

TO: PATUXENT PUBLISHING COMPANY
May 21, 1998 Issue - Jeffersonian

Please forward billing to:

Michael Steven Knight
407 Riverside Drive
Baltimore, MD 21221

410-391-6583

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 98-405-SPH

407 Riverside Drive

NE/S Riverside Drive, 257' +/- SE of Cedar Avenue

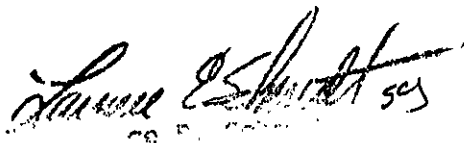
15th Election District - 7th Councilmanic District

Legal Owner: Michael Steven Knight & Karen Marie Knight

Contract Purchaser: Michael Steven Knight

Special Hearing to approve the use of the property (garage) for personal use of a gunsmith and archery shop.

HEARING: Tuesday, June 9, 1998 at 10:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue



LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS
PLEASE CALL 410-887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 410-
887-3391.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

May 13, 1998

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 98-405-SPH

407 Riverside Drive

NE/S Riverside Drive, 257' +/- SE of Cedar Avenue

15th Election District - 7th Councilmanic District

Legal Owner: Michael Steven Knight & Karen Marie Knight

Contract Purchaser: Michael Steven Knight

Special Hearing to approve the use of the property (garage) for personal use of a gunsmith and archery shop.

HEARING: Tuesday, June 9, 1998 at 10:00 a.m. in Room 407, County Courts Building,
401 Bosley Avenue

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

Arnold Jablon
Director

c: Karen & Michael Knight

- NOTES: (1) **YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY MAY 25, 1998.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3353.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 410-887-3391.





Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

June 2, 1998

Mr. & Mrs. Michael Steven Knight
407 Riverside Drive
Baltimore, MD 21221

RE: Item No.: 405
Case No.: 98-405-SPH
Petitioner: Michael Steven
Knight and Karen Marie Knight
Location: 407 Riverside Drive

Dear Mr. & Mrs. Knight:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on April 28, 1998.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Gwendolyn Stephens in the zoning office (410-887-3391).

Sincerely,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Zoning Supervisor

WCR:ggs
Attachment(s)



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development
Management

Date: May 18, 1998

FROM: *RWB* Robert W. Bowling, Chief
Development Plans Review Division

SUBJECT: Zoning Advisory Committee Meeting
for May 18, 1998
Item Nos. 404, 405, 406, 407, 408,
409, 411, 412, 413, 415

ALSO:

Use Permit for Farmer's Roadside Stand
(W/S Jarrettsville Pike, Opposite
South Side Avenue (14350 Jarrettsville
Pike)

ALSO:

Revised Plans for Case #98-328-SPHXA
(9205 Harford Road)

The Development Plans Review Division has reviewed the subject zoning items, and we have no comments.

RWB:HJO:jrb

cc: File

ZONE0518.NOC

Due Date: May 18, 1998

TO: Arnold Jablon

FROM: R. Bruce Seeley *RBS/jg*

SUBJECT: Zoning Item #405

Knight Property, 407 Riverside Drive

Zoning Advisory Committee Meeting of May 11, 1998

- The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.
- The Department of Environmental Protection and Resource Management requests an extension for the review of the above-referenced zoning item to determine the extent to which environmental regulations apply to the site.
- X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:
 - Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).
 - Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code).
 - X Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).



**Maryland Department of Transportation
State Highway Administration**

Parris N. Glendening
Governor

David L. Winstead
Secretary

Parker F. Williams
Administrator

Ms. Gwen Stephens
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County 5.12.5 ✓
Item No. 405 JJS

Dear Ms. Stephens:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Thank you for the opportunity to review this item.

Very truly yours,

R. J. Burns
for Ronald Burns, Chief
Engineering Access Permits
Division

LG

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202



Baltimore County
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

June 1, 1998

Arnold Jablon, Director
Zoning Administration and Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: MICHAEL STEVEN KNIGHT AND
KAREN MARIE KNIGHT
AND
ROBERT J. SEIDEL, SR.

Location: DISTRIBUTION MEETING OF May 11, 1998

Item No.: 405 AND FARMER'S ROADSIDE STAND Zoning Agenda:

Gentlemen:

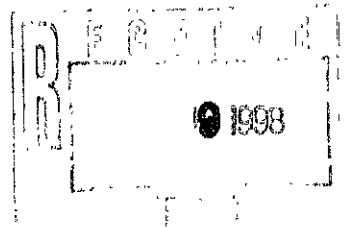
Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1994 edition prior to occupancy.

REVIEWER: LT. ROBERT P. SAUERWALD

Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File



for
6/9

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
and Development Management

DATE: June 2, 1998 3 1998

FROM: Arnold F. 'Pat' Keller, III, Director
Office of Planning

PDM

SUBJECT: 407 Riverside Drive

INFORMATION

Item Number: 405
Petitioner: Knight Property
Zoning: DR 5.5
Requested Action: Special Hearing

Case # 96-89-SPH

Summary of Recommendations:

Based upon the information provided and review of a recent Circuit Court decision, staff recommends that the applicant's request be denied. Attached please find a copy of the Memorandum Opinion (Circuit Court Case No. 3-C-96-9060) regarding a property located at 14207 Longnecker Road.

Prepared by:

Jeffrey W. Long

Division Chief:

Gary L. Kerns

AFK/JL

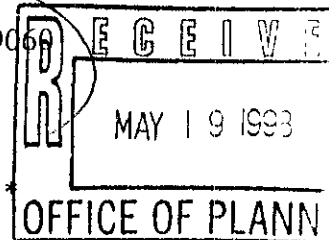
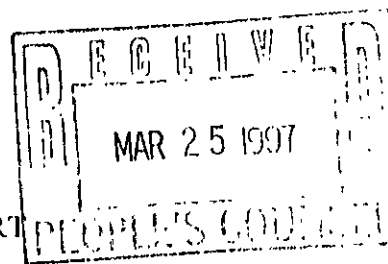
IN THE MATTER OF THE
APPLICATION OF NEIL
KRAVITZ
FOR A SPECIAL HEARING
ON PROPERTY LOCATED
ON THE EAST SIDE
LONGNECKER ROAD, 400'
N. OF THE C/L OF PINEY
GROVE RD (14207 LONG-
NECKER ROAD)
4TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

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IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY

CASE NO. 3-C-96-9069

Case # 96-89-SPH



MEMORANDUM OPINION

This matter comes before this Court as an appeal by the property owner from the County Board of Appeals' denial of a Petition for Special Hearing requesting the sale of firearms and the manufacture of ammunition on residentially zoned property as a home occupation.

Petitioner resides at 14207 Longnecker Road near Glyndon in northern Baltimore County, which is located in an R.C.2 zone. This lot is improved with two buildings connected by a walkway with an overhang from the smaller building to the rear uncovered back patio of the larger building. It is undisputed that there is no internal access between the two buildings.

From this location Petitioner engages in the reloading of "custom" ammunition for sale to others, as well as the sale of firearms. Petitioner utilizes a reloading machine press that has the ability to manufacture different types of cartridges for various models of guns. It is undisputed that this machine has no other purpose than to manufacture ammunition. Due to the specific requirements of Petitioner's assorted customers, they must often leave their firearms at Petitioner's residence overnight.

The Federal Government requires that any person desiring to engage in business as a firearms or ammunition importer, manufacturer, or dealer must first obtain a license to do so in

accordance with the Federal Violent Crime Control and Law Enforcement Act of 1994. 18

U.S.C.S § 923 (d)(1)(F)(i). Additionally, the Act specifically requires that:

“(F) The applicant certifies that the business to be conducted under the license is not prohibited by State or local law in the place where the licensed premises is located;”

See 18 U.S.C.S. § 923 (d)(1)(F)(i). This requirement includes compliance with local zoning and fire regulations. In accordance with this section Baltimore County Police Department sent each holder of an ammunition sales license residing in a residential zone a letter advising the holder that compliance with the local zoning law was required. At this time Petitioner filed for a Special Hearing to determine that he was properly operating a “home occupation” at his residence. This Petition was denied. Subsequently, Petitioner appealed this denial to the Baltimore County Board of Appeals, which in a written opinion, also denied Petitioner’s request. The instant appeal was then filed.

As is well known, the Circuit Court, sitting in its appellate capacity, is quite limited in its scope of review of a decision of the Baltimore County Board of Appeals. The concept of appellate review is discussed in the cases of People’s Counsel v. Mangione, 85 Md.App. 738 (1991), and Red Roof Inns v. People’s Counsel, 96 Md.App 219 (1993). These decisions reaffirm the language of prior cases in which the general standard is defined as “whether a reasoning mind reasonably could have reached the factual conclusion the agency reached; this need not and must not be either judicial fact-finding or a substitution of judicial judgment for agency judgment.” Mangione, 85 Md.App at 750, and cases cited therein. The case law establishes that a reversal of an agency decision is only proper where the reviewing court demonstrates specific examples of illegality, unreasonableness, or a total disregard of the

evidence.

In the instant case, the central issue for this Court to determine is whether Petitioner's activity of manufacturing and selling "reloaded" ammunition constitutes a permitted "home occupation" as defined in the Baltimore County Zoning Regulations. A "home occupation" is a permitted accessory use in an R.C.2 zone, provided it complies with the definitions in BCZR § 101. A "home occupation" is defined as follows:

Any use conducted entirely within a dwelling which is incidental to the main use of the building for dwelling purposes and does not have any exterior evidence, other than a permitted sign, to indicate that the building is being utilized for any purpose other than that of a dwelling; and in connection with which no commodity is kept for sale on the premises, not more than one person is employed on the premises other than domestic servants or members of the immediate family, and no mechanical equipment is used except such as may be used for domestic purposes. A home occupation does not include fortune telling. [B.C.Z.R., 1955, Bills No. 124, 1978; No. 27, 1981.]

For the reasons set forth below this Court holds that the Board of Appeals was correct in determining that Petitioner's activity of manufacturing bullets for sale in his home does not fall within the definition of a "home occupation," and is thus barred by the applicable zoning regulations cited above.

Initially, this Court finds that Petitioner's activity goes beyond that which could reasonably be considered "incidental" to the main use of the dwelling. Petitioner asserts, both in his written memorandum and at oral argument, that this activity is a mere hobby, and should therefore fall under the "domestic use" umbrella of permitted activities. Petitioner's Transcript at 10. In fact, Petitioner contends that the Board of Appeals has, by the denial of this Request, "discriminated against thousands of hobbyists who reload their own ammunition." *Id.* at 11.

However, Petitioner's testimony at the hearing below clearly indicates that this activity far surpasses that which could reasonably be considered a "hobby." Specifically, Petitioner acknowledged that he has manufactured approximately 10,000 rounds of ammunition for sale to his customers in the past year. Transcript at 81. He has also assembled and sold over 40 firearms in the past two years. Both the commercial nature and sheer magnitude of this activity preclude this Court from agreeing with Petitioner that his activity is merely a hobby.

With respect to that part of the "home occupation" definition of the Baltimore County Zoning Regulations involving that "which is incidental to the main use of a building for dwelling purposes" the Zoning Commissioner's Policy Manual states:

(2) This statement is interpreted based upon the common definition of the word 'incidental'; i.e., that a 'home occupation' is a use that happens as a result of and in connection with the principal use as a dwelling. The use must therefore be of a domestic nature.

Uses that easily fall within this definition would be a person who takes in ironing or washing of clothes, sewing or dressmaking, and/or cooking. Other more modern days uses such as computers used to keep track of home finances and related matters can be considered as domestic equipment. As a home occupation use, a computer must be used in a manner that is secondary or minor and can be associated in some way with the normal domestic functions of the dwelling.

After a thorough review of the entire record made below, the written briefs, and the arguments presented at the hearing of this matter, this Court agrees with the Board of Appeals that the extent to which Petitioner engages in the manufacturing of ammunition happens "as a result of and in connection with the principal use as a dwelling." Simply put, the manufacturing and sale to others of "custom" ammunition, at a rate of approximately 10,000 units per year is not customarily considered to be a domestic function. Appellant here argues that ammunition

reloading is a domestic usage that can be traced back to colonial times. However, as times have changed, so also have domestic practices that once were considered as standard functions in every household. The Board of Appeals was not unreasonable in concluding that Petitioner's activity is not akin to those domestic functions contemplated by the Zoning Commissioner, such as sewing and cooking.

Additionally, the definition of "home occupation" as set out above prohibits the use of mechanical equipment that would not ordinarily be utilized for domestic purposes. There is no doubt that the machine press in question here has but one function - the manufacture of ammunition. It does not perform any other task within or about the dwelling. It logically follows from the above analysis, then, that the machine itself is not incidental to the main use of the building for dwelling purposes.

As stated above, a reviewing court is restricted to the record made before the administrative agency, and is confined to whether, based on the record, a reasoning mind reasonably could have reached the factual conclusion reached by the agency. The decision of the Board in this case was supported by competent, material and substantive evidence.

For the foregoing reasons, the decisions of the Baltimore County Board of Appeals is hereby AFFIRMED, with costs of this Appeal to be paid by Appellant.

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Christian M. Kahl

3-24-97
Date

cc: Peter Max Zimmerman, Esq.
Jay Fred Cohen, Esq.

RE: PETITION FOR SPECIAL HEARING
407 Riverside Drive, NE/S Riverside Dr, 257' +/- SE
of Cedar Ave, 15th Election District, 7th
Councilmanic

Legal Owners: Michael S. and Karen M. Knight
Contract Purchaser: Michael S. Knight

Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case Number: 98-405-SPH

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates of other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of May, 1998, a copy of the foregoing Entry of Appearance was mailed to Michael S. and Karen M. Knight, 407 Riverside Drive, Baltimore, MD 21221, Petitioner(s).

Peter Max Zimmerman
PETER MAX ZIMMERMAN

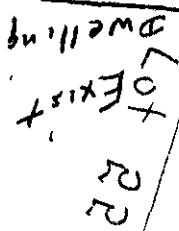
☒ Special Hearing

see pages 5 & 6 of the CHECKLIST for additional required information.

Bal+Mad 21221

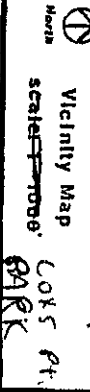
B1K 43

Lot $\frac{1}{2}$ 33 - $\frac{1}{2}$ 24



✓
+ Exist
22
Dwelling

Scale of Drawing: $1" = 30'$

**LOCATION INFORMATION**

tion District: 15

Neilmann District: 7

100' scale map#: N 61 1 17 10:49

DR S.S.

size: 0.193 acreage 8415 square feet

SEWER: ☒ public ☐ private

WATER: ☒ ☐

apeake Bay Critical Area:

Zoning Hearings:

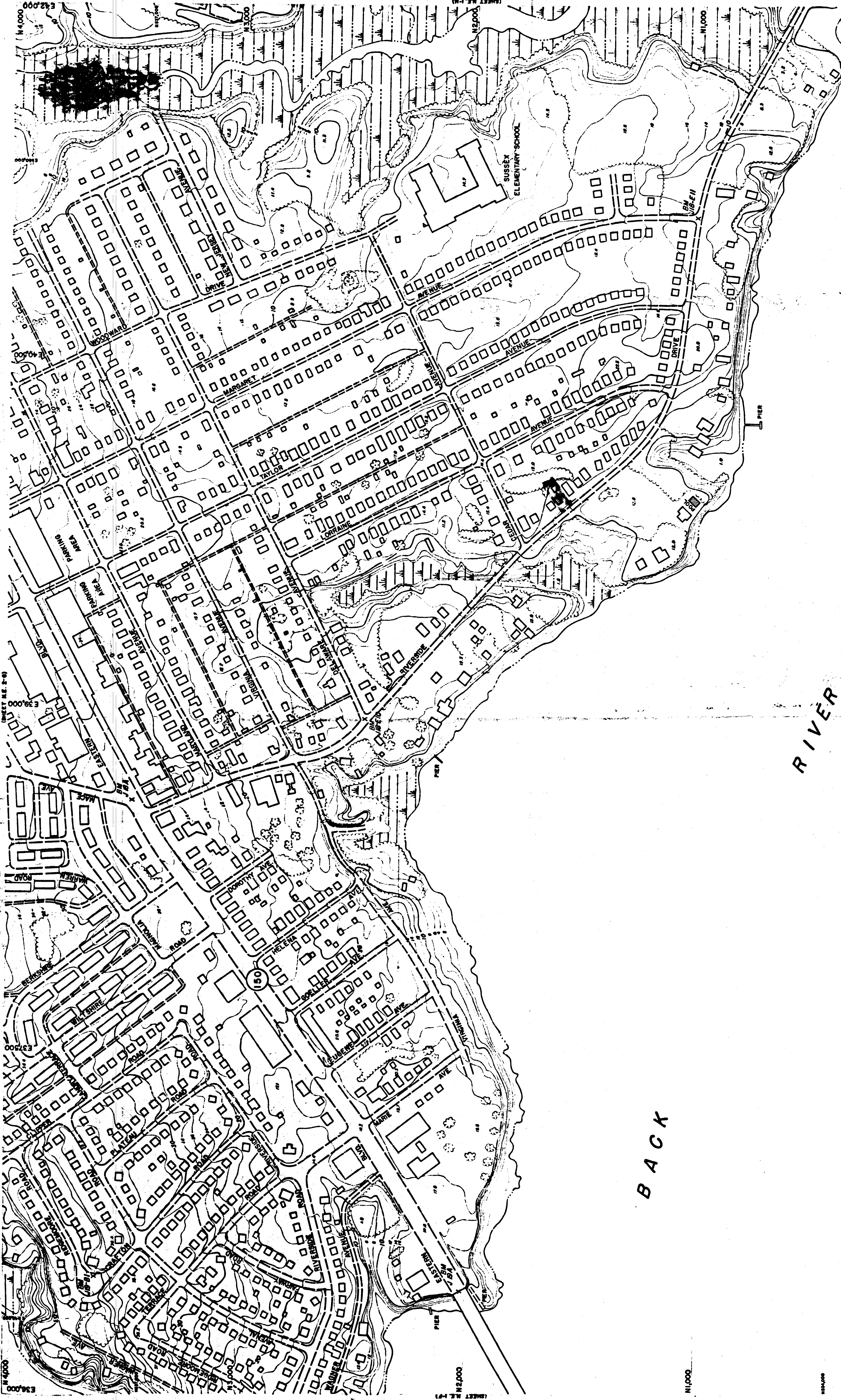
None

Zoning Office USE ONLY!

reviewed by:	ITEM #:	CASE#:

405

405



PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA

REVISIONS		SCALE	LOCATION	SHEET
BY	DATE			
		1" = 200'	ESSEX	N.E. 1-G
Topography Compiled By Photogrammetric Methods ABRAMS AERIAL SURVEY CORE LANSING MICH.				

98.405-SPH

MICROFILMED